

REMARKS

Applicants have amended claim 1 to more particularly point out and distinctly claim the subject matter which they regard as their invention; and cancelled claim 2 to overcome the alleged improper dependency (the Office Action, page 2, lines 12-17). No new matter has been introduced.

Claims 1-11 were elected for prosecution in response to a restriction requirement set forth in the office action dated November 17, 2000. Among them, only claims 1, 3, and 11 have been considered. Reconsideration of the application, as amended, is respectfully requested in view of the remarks below.

Claims 1, 3, and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by four references, i.e., Chinese Application Nos. 1079655 (CN '655) and 1134832 (CN '832), U.S. Patent No. 4,795,742 (US '742), and Japanese Patent No. 62005126 (JP '126). Claim 1, as amended, covers a pharmaceutical composition including an American ginseng extract and a pharmaceutical carrier. Applicants have changed the transitional term in claim 1 (the only independent claim) from "comprising" to "consisting essentially of."

The transitional term "consisting essential of" limits the scope of a claim to the specified materials or steps and those that do not materially affect the basic and novel characteristics of the claimed invention. See the Manual of Patent Examining Procedure § 2111.03. By replacing "comprising" with "consisting essentially of," Applicants have limited claim 1 to an American ginseng extract, a pharmaceutically acceptable carrier, and those that do not materially affect the basic and novel characteristics of the composition of claim 1. The basic and novel characteristic of the composition of this claim resides in that a **sole active ingredient**, i.e., an American ginseng extract, is capable of preventing or treating peptic ulcer by itself.

CN '655, CN '832, and US '742 disclose compositions including, respectively, seven, six, and four plants extracts as active components, one of which is an American ginseng extract. As discussed above, claim 1, as amended, is limited to an American ginseng as the sole active ingredient, and therefore, none of the three references anticipate claim 1.

JP '126 discloses a composition including active components (i.e., Saponins) "**isolated and purified**" from a plant such as American ginseng. On the other hand, the composition of claim 1 includes an active component, which is an **extract** (a mixture of compounds), not an

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isolated or purified compound. Since JP '126 discloses purified compounds, rather than an extract, as an active component, it does not anticipate claim 1.

For the reasons set forth above, claim 1 is not anticipated by any of the four references. Neither are claims 3 and 11, which directly depend from claim 1.

In conclusion, Applicants submit that grounds for the rejections asserted by the Examiner have been removed, and that claims 1, 3, and 11 define subject matter that is novel and nonobvious over the prior art.

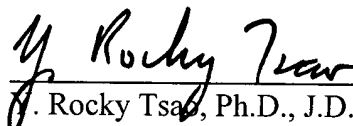
Attached is a marked-up version of the changes being made by the current amendment.

Please apply any charges to Deposit Account No. 06-1050.

Respectfully submitted,

Date: _____

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Claim 1 has been amended as follows:

1. (Amended) A pharmaceutical composition for preventing [and/]or treating peptic ulcer, [comprising] consisting essentially of:

(iii) an [effective amount of] American ginseng [and/or the] extract [thereof] in an amount effective for preventing or treating peptic ulcer; and

(iv) a [physiologically or] pharmaceutically acceptable carrier [or excipient].

Claim 2 has been cancelled.